

UNITED STATES DISTRICT COURT
SOUTHERN OF NEW YORK

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DAMARIS B. DIAZ,

Plaintiff,

-against-

NYC HEALTH AND HOSPITALS CORPORATION,

Defendant.
----- x

ANSWER

08 CV 0476 (DAB)

Defendant by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for their Answer to the Complaint, respectfully allege as follows:

1. Denies the allegations set forth in the first unnumbered paragraph of the complaint, except admits that plaintiff purports to proceed as set forth therein. As the second and third unnumbered paragraphs are not checked by plaintiff, no response is necessary by defendant.

2. Denies the allegations set forth in the fourth unnumbered paragraph of the complaint, except admits that plaintiff purports to proceed as set forth therein.

3. Denies the allegations set forth in the fifth unnumbered paragraph of the complaint, except admits that plaintiff purports to proceed as set forth therein.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "I(A)" of the complaint.

5. Denies the allegations set forth in paragraph "I(B)" of the complaint, except admits that New York City Health and Hospitals Corporation ("HHC") has offices located at 125 Worth Street, New York, NY 10003.

6. Denies the allegations set forth in paragraph "I(C)" of the complaint, except admits that plaintiff was assigned within the Generations Plus Northern Manhattan Health Network.

7. Denies the allegations set forth in paragraph "II(A)" of the complaint.

8. Denies the allegations set forth in paragraph "II(B)" of the complaint, except admits that plaintiff was terminated on December 29, 2006.

9. Denies the allegations set forth in paragraph "II(C)" of the complaint, except admits that plaintiff purports to proceed as set forth therein.

10. Denies the allegations set forth in paragraph "II(D)" of the complaint, except denies knowledge or information sufficient to form a belief as to the plaintiff's race and national origin.

11. Denies the allegations set forth in paragraph "II(E)" of the complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "III(A)" of the complaint, except admits upon information and belief that the New York State Division of Human Rights received charges of alleged discrimination for plaintiff on or about December 13, 2006.

13. Denies the allegations set forth in paragraph "III(B)" of the complaint, except admits that the EEOC issued a right to sue letter, dated October 12, 2007, concerning plaintiff's charge of alleged discrimination.

14. Denies the allegations set forth in paragraph "IV" of the complaint.

FOR A FIRST DEFENSE:

15. The complaint fails to state a claim upon which relief can be granted.

FOR A SECOND DEFENSE:

16. Defendant's determinations and actions concerning plaintiff were based on legitimate non-discriminatory, non-retaliatory reasons.

FOR A THIRD DEFENSE:

17. At all times relevant to the acts alleged in the complaint, defendants acted reasonably, properly, lawfully and in good faith.

FOR A FOURTH DEFENSE:

18. Plaintiff has not satisfied all conditions precedent to suit.

FOR A FIFTH DEFENSE:

19. This action is barred in whole or in part by the applicable statute of limitations.

FOR A SIXTH DEFENSE:

20. Plaintiff's claim for front and/or back pay may be barred by her failure to mitigate damages.

FOR A SEVENTH DEFENSE:

21. Plaintiff unreasonably failed to take advantage of the preventive and corrective opportunities provided by defendants or to otherwise avoid harm.

FOR AN EIGHTH DEFENSE:

22. This Court does not have jurisdiction over any claims that were not raised in plaintiff's administrative charge of discrimination.

WHEREFORE, defendant requests judgment dismissing the complaint and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
May 21, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant
100 Church Street, Room 2-118
New York, New York 10007
(212) 442-0144

By: 
Robyn Silvermintz
Assistant Corporation Counsel
rsilverm@law.nyc.gov

CERTIFICATE OF SERVICE

I, **Robyn Silvermintz**, hereby certify that, on May 21, 2008, I caused a true and correct copy of the foregoing Answer to the Complaint to be served upon plaintiff *pro-se*, in a prepaid postage envelope first-class mail, addressed to

Damaris B. Diaz
Plaintiff, *pro se*
701 West 175th St., Apt. 6A
New York, NY 10033

that being the address that plaintiff *pro-se* designated for receipt of such material.

Dated: New York, New York
May 21, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendants
100 Church Street, Room 2-107
New York, New York 10007
(212) 442-0144

By:


Robyn Silvermintz
Assistant Corporation Counsel